

## Introduced by Senator Runner

February 15, 2005

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An act to amend Section 120955 of the Health and Safety Code, relating to HIV.

## LEGISLATIVE COUNSEL'S DIGEST

SB 221, as introduced, Runner. AIDS Drug Assistance Program.

Existing law requires the Director of Health Services, to the extent that state and federal funds are appropriated in the Budget Act for this purpose, to establish a program, known as the AIDS Drug Assistance Program (ADAP), to provide drug treatments to persons infected with human immunodeficiency virus (HIV).

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 120955 of the Health and Safety Code is  
2 amended to read:  
3 120955. (a) (1) To the extent that state and federal funds  
4 are appropriated in the annual Budget Act for these purposes, the  
5 director shall establish and may administer a program to provide  
6 drug treatments to persons infected with human  
7 immunodeficiency virus (HIV), the etiologic agent of acquired  
8 immune deficiency syndrome (AIDS). If the director makes a  
9 formal determination~~that~~, in any fiscal year, *that* funds  
10 appropriated for the program will be insufficient to provide all of  
11 those drug treatments to existing eligible persons for the fiscal

1 year and that a suspension of the implementation of the program  
2 is necessary, the director may suspend eligibility determinations  
3 and enrollment in the program for the period of time necessary to  
4 meet the needs of existing eligible persons in the program.

5 (2) The director shall develop, maintain, and update as  
6 necessary a list of drugs to be provided under this program.

7 (b) The director may grant funds to a county public health  
8 department through standard agreements to administer this  
9 program in that county. To maximize the recipients' access to  
10 drugs covered by this program, the director shall urge the county  
11 health department in counties granted these funds to decentralize  
12 distribution of the drugs to the recipients.

13 (c) The director shall establish a rate structure for  
14 reimbursement for the cost of each drug included in the program.  
15 Rates shall not be less than the actual cost of the drug. However,  
16 the director may purchase a listed drug directly from the  
17 manufacturer and negotiate the most favorable bulk price for that  
18 drug.

19 (d) Manufacturers of the drugs on the list shall pay the  
20 department a rebate equal to the rebate that would be applicable  
21 to the drug under Section 1927(c) of the federal Social Security  
22 Act (42 U.S.C. Sec. 1396r-8(c)) plus an additional rebate to be  
23 negotiated by each manufacturer with the department, except that  
24 no rebates shall be paid to the department under this section on  
25 drugs for which the department has received a rebate under  
26 Section 1927(c) of the federal Social Security Act (42 U.S.C.  
27 Sec. 1396r-8(c)) or that have been purchased on behalf of county  
28 health departments or other eligible entities at discount prices  
29 made available under Section 256b of Title 42 of the United  
30 States Code.

31 (e) The department shall submit an invoice, not less than two  
32 times per year, to each manufacturer for the amount of the rebate  
33 required by subdivision (d).

34 (f) Drugs may be removed from the list for failure to pay the  
35 rebate required by subdivision (d), unless the department  
36 determines that removal of the drug from the list would cause  
37 substantial medical hardship to beneficiaries.

38 (g) The department may adopt emergency regulations to  
39 implement amendments to this chapter made during the 1997–98  
40 Regular Session, in accordance with the Administrative

1 Procedure Act, Chapter 3.5 (commencing with Section 11340) of  
2 Part 1 of Division 3 of Title 2 of the Government Code. The  
3 initial adoption of emergency regulations shall be deemed to be  
4 an emergency and considered by the Office of Administrative  
5 Law as necessary for the immediate preservation of the public  
6 peace, health and safety, or general welfare. Emergency  
7 regulations adopted pursuant to this section shall remain in effect  
8 for no more than 180 days.

9 (h) Reimbursement under this chapter shall not be made for  
10 any drugs that are available to the recipient under any other  
11 private, state, or federal programs, or under any other contractual  
12 or legal entitlements, except that the director may authorize an  
13 exemption from this subdivision where exemption would  
14 represent a cost savings to the state.